ORIGINAL

DANIEL J. LANG
PLAINTIFF/PETITIONER/MOVANT'S NAME
C82516
PRISON NUMBER

RICHARD J. DONOVAN CORR. FAC. 1-1-111
PLACE OF CONFINEMENT
P.O. BOX 799001
SAN DIEGO , CA 92179-9001
ADDRESS

2254 ___ 1983 ✓	
FILING FEE PAID	
Yes ___ No ✓	
IFP MOTION FILED	
Yes ✓ No ___	
COPIES SENT TO	
Court ✓ ProSe ___	

FILED
2008 FEB -6 PM 3:41
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

United States District Court
Southern District Of California

DANIEL J. LANG, Plaintiff/Petitioner/Movant

v.

TERESA SCHWARTZ, DIRECTOR (A) ROBERT J. HERNANDEZ, et al., Defendant/Respondent

Civil No. '08 CV 0238 JLS CAB
(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

MOTION AND DECLARATION UNDER PENALTY OF PERJURY IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS

I, Daniel J. Lang, declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

In further support of this application, I answer the following question under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to question 2)

   If "Yes," state the place of your incarceration Richard J. Donovan Correctional Facility

   Are you employed at the institution? ☐ Yes ☒ No

   Do you receive any payment from the institution? ☐ Yes ☒ No

   [Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

2. Are you currently employed? ☐ Yes ☒ No

   a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. N/A

   b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer. Incarcerated past 25 years...

3. In the past twelve months have you received any money from any of the following sources?:

a. Business, profession or other self-employment	☐ Yes	☒ No
b. Rent payments, royalties interest or dividends	☐ Yes	☒ No
c. Pensions, annuities or life insurance	☐ Yes	☒ No
d. Disability or workers compensation	☐ Yes	☒ No
e. Social Security, disability or other welfare	☐ Yes	☒ No
e. Gifts or inheritances	☐ Yes	☒ No
f. Spousal or child support	☐ Yes	☒ No
g. Any other sources	☐ Yes	☒ No

   If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month. N/A

4. Do you have any checking account(s)? ☐ Yes ☒ No

   a. Name(s) and address(es) of bank(s): N/A

   b. Present balance in account(s): N/A

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☒ No

   a. Name(s) and address(es) of bank(s): N/A

   b. Present balance in account(s): N/A

6. Do you own an automobile or other motor vehicle? ☐ Yes ☒ No

   a. Make: N/A Year: N/A Model: N/A

   b. Is it financed? ☐ Yes ☐ No N/A

   c. If so, what is the amount owed? N/A

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?

☐ Yes ☒ No

If "Yes" describe the property and state its value. N/A

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. N/A

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable):

I owe the CDCR for legal copy fees .....

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]): N/A

12. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses.

CDCR Prison pays for my daily exhistance, unfortunately.

I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.

12-13-07
DATE

Daniel J. Lang [signature]
SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant Daniel J. Lang, C82516, (Fac.1-1-111) R.J. Donovan
(NAME OF INMATE)

Correctional Facility P.O. Box 799001, San Diego, CA 92179-9001,
(INMATE'S CDC NUMBER)

has the sum of $ (Ø) Zero on account to his/her credit at Richard J. Donovan Correctional Facility, 480 Alta Road, San Diego CA 92179.
(NAME OF INSTITUTION)

I further certify that the applicant has the following securities (Ø) Zero to his/her credit according to the records of the aforementioned institution. I further certify that **during the past six months** the applicant's ***average monthly balance*** was $ (Ø) Zero; Negative Balance and the ***average monthly deposits*** to the applicant's account was $ (Ø) Zero.

ALL PRISONERS ***MUST*** ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

1-29-08
DATE

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

OFFICER'S FULL NAME (PRINTED)

OFFICER'S TITLE/RANK

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, Daniel J. Lang, C82516, request and authorize the agency holding me in
(Name of Prisoner/ CDC No.)
custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☑ $350 (civil complaint) or ☐ $5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

12-4-07
DATE

Daniel J. Lang
SIGNATURE OF PRISONER

CERTIFIED STATEMENT OF TRUST ACCOUNT

I, DANIEL J. LANG (Name:), C82516 (CDC #:), FAC.1-1-111 LOW (Housing Unit)

am seeking to bring a civil action or appeal a judgment in UNITED STATES DISTRICT COURT (Title of the Court: (i.e. U. S. District Court)) without prepayment of fees (In Forma Pauperis) pursuant to 28 U.S.C. 1915(a)(2).

Enter the caption for the legal action:

LANG (Plaintiff:) v. HERNANDEZ, ET AL. (Defendant:)

Address of the Court: SOUTHERN DISTRICT COURT OF CALIFORNIA
880 FRONT ST. #4290
SAN DIEGO, CA 92101-8900

In order to proceed, a certified copy of my Trust Fund Account must be submitted to the court of jurisdiction. I understand that CDC regulations and the court require that the certified copy be submitted directly to the Court from the Institution's Accounting office. I request a statment be sent to the court.

DANIEL J. LANG [signature] 12-4-07
Inmate Signature:

This form must be submitted to the Central Librarian who will log the request in and forward the form to the Accounting office at the institution for processing.

The Inmate Request For Certified Statement Of Trust Account was received in the Central Library on, 11-6-07 (Date:),

by [signature]
Name of Librarian who logged request

A Certified Statement Of Trust Account for a six month period from 5-01-2007 (Date:) through 12-10-2007 (Date:) for the above identified inmate was processed through the Accounting Office at the Richard J. Donovan Correctional Facility on, 12-10-2007 (Date:), by C. Rodriguez (Name of person processing)

I, C. Rodriguez (Name of person processing) declare that on, 12-10-2007 (Date:), I deposited the Certified Statement of Trust Account in the United States Postal Service addressed as follows.

Signed: [signature]
Signature of employee mailing statement

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE

(Incarcerated applicants only)

(To be completed by the institution of incarceration)

I certify that the applicant Daniel Joseph Lang,
(NAME OF INMATE)

C82516,
(INMATE'S CDC NUMBER)

has the sum of $ 0 on account to his/her credit at Richard J. Donovan Correctional Facility
(NAME OF INSTITUTION)

I further certify that the applicant has the following securities N/A to his/her credit according to the records of the aforementioned institution. I further certify that **during the past six months** the applicant's ***average monthly balance*** was $ 0, and the ***average monthly deposits*** to the applicant's account was $ 0.

ALL PRISONERS ***MUST*** ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

12-10-2007
DATE

C. Rodriguez
SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

C. Rodriguez
OFFICER'S FULL NAME (PRINTED)

Account Clerk II
OFFICER'S TITLE/RANK

REPORT ID: TS3030 .701 REPORT DATE: 12/10/07
PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
R.J.DONOVAN CORR. FACILITY
INMATE TRUST ACCOUNTING SYSTEM
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: MAY 01, 2007 THRU DEC. 10, 2007

ACCOUNT NUMBER : C82516 BED/CELL NUMBER: F1Q100000000111L
ACCOUNT NAME : LANG, DANIEL JOSEPH ACCOUNT TYPE: I
PRIVILEGE GROUP: A

TRUST ACCOUNT ACTIVITY

<< NO ACCOUNT ACTIVITY FOR THIS PERIOD >>

CURRENT HOLDS IN EFFECT

DATE PLACED	HOLD CODE	DESCRIPTION	COMMENT	HOLD AMOUNT
10/17/2006	H110	COPIES HOLD	1584/OCT06	1.60
02/02/2007	H110	COPIES HOLD	3200/NOV06	3.70
02/02/2007	H110	COPIES HOLD	3200/OCT06	4.50
02/02/2007	H110	COPIES HOLD	3200/DEC06	0.20
02/02/2007	H110	COPIES HOLD	3200/OCT06	1.40
02/23/2007	H110	COPIES HOLD	3523/FEB07	0.30
04/20/2007	H110	COPIES HOLD	4373/MAR07	3.50
05/17/2007	H110	COPIES HOLD	4851/APR07	0.95
05/17/2007	H110	COPIES HOLD	4851/APR07	9.75

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	0.00	0.00	0.00	25.90	0.00

CURRENT AVAILABLE BALANCE
25.90-

THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST: 12-10-07
CALIFORNIA DEPARTMENT OF CORRECTIONS
BY [signature]
TRUST OFFICE

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

LANG V. SCHWARTZ, ET AL.
MOTION AND DECLARATION UNDER PENALTY OF PERJURY IN SUPPORT OF MOTION TO ~~PROCEED IN FORMA PAUPERIS~~

(C.C.P. SEC. 446 & 2015.5; 28 U.S.C. SEC. 1746)

I, DANIEL J. LANG DECLARE UNDER THE PENALTY OF PERJURY THAT: I AM THE Declarant/Prisoner IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 4TH DAY OF FEBRUARY 2008, AT R.J.D. STATE PRISON, 480 Alta Road, San Diego, CA 92179.

(SIGNATURE) DANIEL J. LANG, PETITIONER/PLAINTIFF IN PRO PER
(DECLARANT/PRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC. 1013 (a) & 2015.5; 28 U.S.C. SEC. 1746)

I, ROBERT HENDRICKSON, *AM A RESIDENT OF* R.J.D. *STATE PRISON, IN THE COUNTY OF* S.D. *STATE OF CALIFORNIA; I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM/AM NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS:* ROBERT J. HENDRICKSON, F19729, RICHARD J. DONOVAN CORR. FAC. 1-1-111 UP, P.O. BOX 799001 SAN DIEGO CA 92179.

ON 2-4-08, *I SERVED THE FOREGOING:*

MOTION TO PROCEED IN FORMA PAUPERIS; & SUMMONS IN CIVIL ACTION

(SET FORTH EXACT TITLE OF DOCUMENT/S SERVED)

ON THE PARTY(S) HEREIN BY PLACING A TRUE COPY(S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT Richad J. Donovan Correctional Facility

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
880 FRONT STREET, ROOM 4290
SAN DIEGO, CA 92101-8900

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: FEBRUARY 4TH, 2008

ROBERT HENDRICKSON
(DECLARANT/PRISONER)